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FISCAL IMPACT STATEMENT

LS 6729

BILL NUMBER: SB 330

NOTE PREPARED: Jan 1, 2006

BILL AMENDED:

SUBJECT: Custody after Paternity is Established.

FIRST AUTHOR: Sen. Broden

BILL STATUS: As Introduced

FIRST SPONSOR:

FUNDS AFFECTED: ☒ **GENERAL**
DEDICATED
FEDERAL

IMPACT: Local

Summary of Legislation: This bill provides that in a custody proceeding held after paternity is established, a court may:

- (1) award joint legal custody of a child if the court determines joint legal custody would be in the best interests of the child;
- (2) tax as costs payment of travel and other expenses for the presence of an individual at the proceeding;
- (3) seek the advice of professional personnel;
- (4) name a temporary custodian under certain conditions;
- (5) upon request, order an investigation and report concerning custodial arrangements of the child;
- (6) order a custodian to obtain counseling for the child;
- (7) order continuing supervision over a case; and
- (8) order that an interview, report, or investigation not be public record.

The bill requires the court to: (1) determine questions of law and fact without a jury; and (2) if an individual granted custody moves the individual's residence under certain conditions, hold a hearing upon the request of either party to review and modify, if appropriate, the custody, parenting time, and support orders. It requires the court to consider certain factors in awarding joint legal custody of a child and in modifying a child custody order. It also provides that: (1) the custody proceeding must comply with the Indiana Rules of Civil Procedure; and (2) a custodian may determine the child's upbringing.

The bill repeals duplicate provisions concerning: (1) the authority of the custodial parent to determine the child's upbringing; and (2) continuing supervision of a case. It makes certain other changes.

Effective Date: July 1, 2006.

Explanation of State Expenditures:

Explanation of State Revenues:

Explanation of Local Expenditures: *Temporary Guardianship:* If, in a proceeding for custody or modification of custody after establishment of paternity, the court requires supervision during the noncustodial parent's parenting time privileges or suspends the noncustodial parent's parenting time privileges, the court is required to enter a conditional order naming a temporary guardian. The temporary custodian would receive temporary custody of the child upon the death of the child's custodial parent. Upon the death of a custodial parent, a temporary custodian may petition the court for an order naming the temporary custodian as the temporary custodian of the child. The number of instances in which a custodial parent would die and then a temporary guardian would petition the court for temporary guardianship is not known; however, instances are likely few. As proposed, the court would experience minimal increases in expenditures and workload (See *Background Information*).

Background Information -

Investigation and Report: After a petition has been filed upon the request of a parent or the child's custodian, the court may order an investigation and report concerning custodial arrangements for the child. The report and investigation would be conducted by the court social service agency, the staff of the juvenile court, the local probation department, the local Office of Family and Children, or a private agency. Completion of this report would increase the workload for social service agencies, staff of the juvenile court, local probation departments, and local Offices of Family and Children. Actual increases in workload would be dependent on the number of investigations and reports ordered, which entity is required to complete each investigation and report, and the magnitude of each investigation and report.

If an investigation and report is ordered by the court, the investigator may refer the child to professional personnel for diagnosis. Expenditures would increase for the courts as a result. The number of referrals which would be made are not known. Actual increases are dependent on the number of referrals and the cost for professional personnel referred to.

Postage: Upon completion of the investigator's report, the court would be required to mail the report to counsel and to any party not represented by the counsel at least 10 days before the hearing. The current cost to mail a letter is \$0.39. Actual increases are dependent on the number of reports required to be mailed and the number of copies needing to be mailed of each.

Court Costs: The bill allows the court to designate as costs the payment of necessary travel and other expenses incurred by any person whose presence at a custody hearing, after establishment of paternity, the court considers necessary to determine the best interests of the child. Should a court or prosecutor no longer have to pay for a person's presence at a hearing, expenditures for the county would be reduced. It is not known how often outside persons are brought in to hearings at this time. Actual reduction in expenditures would be dependent on the number of persons currently brought in for custody after establishment of paternity hearings and overall costs to bring them to the hearing.

Professional Personnel: The court may seek the advice of professional personnel in determining the best

interests of the child in a custody hearing after determination of paternity. Variation occurs across the state as to whether or not courts currently seek the advice of professional personnel when determining custody after establishment of paternity. Courts which currently do not do so would experience an increase in expenditures. Actual increases are indeterminable.

Explanation of Local Revenues:

State Agencies Affected:

Local Agencies Affected: Courts; Local Offices of Family and Children; Local probation departments.

Information Sources:

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